

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 05-0212

**Sales Tax
For Tax Year 2004**

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales Tax—Auto Sales

Authority: IC § 6-8.1-5-1

Taxpayer protests the assessment of sales tax.

STATEMENT OF FACTS

Taxpayer operates a small car dealership. As the result of an investigation, the Indiana Department of Revenue ("Department") issued a proposed assessment for sales tax for the tax year 2004. The Department determined that taxpayer should have been collecting sales tax on some of its sales of automobiles. Taxpayer protests the assessment. Further facts will be supplied as required.

I. Sales Tax—Auto Sales

DISCUSSION

Taxpayer protests the imposition of sales tax on those vehicles upon which the Department determined that taxpayer should have collected sales tax. The Department notes that, under IC § 6-8.1-5-1(b), a notice of proposed assessment is prima facie evidence that the claim for the unpaid tax is correct and that the burden of proving the proposed assessment wrong rests with the person against whom the proposed assessment is made.

As part of this protest, taxpayer provided documentation for most of the vehicles in question. Taxpayer was unable to produce documentation for one of its customers and accordingly sent a check for \$775.00 to cover the sales tax connected with that customer's purchases. Taxpayer protests that it should not be liable for the sales tax on the remaining sales.

IC § 6-8.1-5-1(b) places the burden of proving a proposed assessment wrong on the one against whom the assessment is made. Taxpayer has provided documentation explaining most of the sales and has paid the amount of sales tax on the remaining sales. Taxpayer has met the burden placed on it by IC § 6-8.1-5-1(b).

FINDING

Taxpayer's protest is sustained.

WL/BK/DK September 25, 2006